IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 383 of 2004 (S/B)

Dr. Rajeev Tyagi,
S/o Sri Vedi Ram Tyagi,
R/o H-23, Shivalik Nagar,
BHEL, Haridwar. ..... Petitioner

Versus

1. Bharat Heavy Electricals Ltd.,
   BHEL House, Siri Fort, New Delhi,
   Through its Chairman & Managing Director.
2. Bharat Heavy Electricals Ltd.
   (Heavy Electricals Equipment Plant),
   Ranipur, Haridwar,
   Through its Executive Director.
3. Bharat Heavy Electricals Ltd. (Bhopal Unit),
   through its Executive Director.
4. Chief Medical Superintendent,
   Bharat Heavy Electricals Ltd.,
   Ranipur, Haridwar.
5. Deputy General Manager, (HR),
   Bharat Heavy Electricals Ltd.,
   Haridwar.
6. Manager (HR-EEX),
   Bharat Heavy Electricals Ltd., (Bhopal Unit),
   Bhopal. ..... Respondents

Mr. Pankaj Miglani, Advocate appearing on behalf of the petitioner.
Mr. V.K. Kohli, Senior Advocate on behalf of respondents.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Irshad Hussain, J.

(Per Hon'ble Chief Justice)

1. Heard Mr. Pankaj Miglani, Advocate appearing on behalf of the petitioner and Mr. V.K. Kohli, Senior Advocate appearing on behalf of respondents.

2. The writ petition has no merits. All that the petitioner says is that he was transferred illegally and when he resisted the transfer and when he found that he could not, any more, successfully avoid the transfer, he resigned from service on 14.08.2004. It seems that his resignation was not being accepted and therefore, the petitioner was

driven to this Court by way of a writ petition No. 355 of 2004 (S/B). That writ petition was disposed of as infructuous on 23.11.2004 in view of the order dated 21.11.2004, by which the resignation of the petitioner was accepted.

3. Now, the petitioner is coming by way of this writ petition No. 383 of 2004 (S/B) complaining that though his resignation has been accepted, the respondents are claiming three months' salary and that he should not be asked to pay three months' salary.

4. The rules are clear, which provide that before giving the resignation, the employee has to give three months' notice. That is not disputed. Therefore, if the resignation is given on 14.08.2004, the petitioner was bound to give three months' notice. if he has not given the three months' notice, then, he will, normally, be liable to pay the employer three months' salary and that is precisely what is said in the impugned order dated 21.11.2004. We do not find anything wrong with this.

5. Mr. Pankaj Miglani, learned counsel says that the whole attitude of the employer was malicious and was vengeanceful, but we are not concerned with that aspect. The rule says that the petitioner must give three months' notice before resigning and his failure to give three months' notice would make him liable to give three months' salary.

6. Hence, the writ petition has no merits and it is, accordingly, dismissed.

(Irshad Hussain, J.) **(V.S. Sirpurkar, C.J.)**
15.12.2004 **15.12.2004**

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